UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,583	06/25/2003	Jonathan P. McIntosh	PAT-041	3299

7590   11/23/2004

Rocco L. Adomato
West Corporation
11808 Miracle Hills Drive
Omaha, NE 68154

EXAMINER
CHAN, WING F

ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _1/26/04 & 4/5/04_.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-55_ is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _1-55_ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on _25 June 2003_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _1/26/04 & 4/5/04_.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____ .

1.   The disclosure is objected to because it contains an embedded hyperlink and/or

other form of browser-executable code. Applicant is required to delete the embedded

hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

The hyperlink is found in page 10 of the specification.

2.   Claims 42, 46, 51 are objected to under 37 CFR 1.75 as being a duplicate of

claims 43, 47, 52 respectively. When two claims in an application are duplicates or else

are so close in content that they both cover the same thing, despite a slight difference in

wording, it is proper after allowing one claim to object to the other as being a substantial

duplicate of the allowed claim. See MPEP § 706.03(k).

3.   Applicant is advised that should claims 42, 46, 51 be found allowable, claims 43,

47, 52 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

When two claims in an application are duplicates or else are so close in content that

they both cover the same thing, despite a slight difference in wording, it is proper after

allowing one claim to object to the other as being a substantial duplicate of the allowed

claim. See MPEP § 706.03(k).

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

5.   Claims 1-52 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Regarding claim 1, the body of the claim recites method steps (e.g. receiving,

issue at least one prompt..., route the call) without reciting any means thereby

rendering the system claim vague and indefinite.

Dependent claims 2-52 are also rejected for the same reason since they are

dependent on a rejected base claim and contain the same problem(s).

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7.   Claims 1-7, 9, 11-13, 17-24, 33-38, 40, 44, 48, 49, 53-55 are rejected under 35

U.S.C. 102(b) as being anticipated by Yudkowsky (US PAT. NO. 5,396,536).

Regarding claims 1, 6, 11, 33-37, 40, 44, 48, 49, 53-55, Yudkowsky discloses an

automated system, method, apparatus and a program storage device for enabling at

least one given caller, who may be one of a hearing caller and a hearing-impaired

caller, to access functionality associated with at least one resource as claimed, e.g. see

abstract, Fig. 1, col. 1 line 57 to col. 2 lines 5, 26-56. Yudkowsky teaches at least one

computer-based subsystem (10) adapted to perform at least the following:

receiving a call from a given caller (step 72, in Fig. 2),

issue at least one prompt in at least a first format requesting at least a first

response (step 72, in Fig. 2, the first format being the spoken announcement),

receive a response after issuing the prompt (step 74 in Fig. 2);

routing the call so as to provide the given caller access to the at least one

resource depending on an analysis of the response (e.g. steps 76-90 in Fig. 2). Also

note Figs. 3-6, col. 3 lines 37-51, col. 4 line 4 to col. 7 line 8 for example.

Regarding claim 2, see Yudkowsky col. 4 lines 48-54 which discloses access via

a common telephone number.

Regarding claims 3, 12, 13, see Yudkowsky step 80 in Fig. 2, and col. 5 lines 12-

18, for sending a further prompt in at least a further format (TDD/modem format)

requesting a further response, and receive a further response.

Regarding claim 4, the first format is different than the further format.

Regarding claim 5, see Yudkowsky step 82 in Fig. 2, and note that a TDD signal

is periodically transmitted.

Regarding claims 7, 17, see step 76 in Fig. 2 which also discloses DTMF as a

response to the prompt.

Regarding claim 9, spoken announcement (first format) is a format suitable for

hearing callers.

Regarding claim 18, e.g. see Yudkowsky steps 80, 82 in Fig. 2.

Regarding claim 19, for example see Yudkowsky steps 80, 82 in Fig. 2, which

includes sending a TDD prompt and determine for a TDD response (step 82).

Regarding claim 20 see Yudkowsky col. 5 lines 6-9, col. 1 line 58-61 for example.

Regarding claim 21, see Yudkowsky step 72 in Fig. 2 for example.

Regarding claims 22-24, see Yudkowsky col. 5 lines 30-35 for example.

Regarding claim 38, see Yudkowsky col. 1 line col. 1 line 57 to col. 2 lines 5, col. 4 lines 57-61 for example, which disclose the computer-based subsystem is able to processing incoming caller input and provide voice response thereto, thus making it a voice response unit.

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9.   This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10.   Claims 14, 15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yudkowsky.

Regarding claim 14, note that in Yudkowsky the further prompt is sent after the first prompt is sent, thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to realize that the first prompt is issued approximately the same time as the further prompt such that the response time of the system is increased.

Regarding claim 15, to modify Yudkowsky to comprise a predefined period of time delay between prompts would have been obvious to one of ordinary skill in the art at the time the invention was made to ensure that a response is given sufficient time to be properly received, detected and analyzed.

11.   Claims 8, 10, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yudkowsky in view of McLaughlin et al (US PAT. NO. 5,687,222 hereinafter McLaughlin).

Yudkowsky differs from the claimed invention (claims 8, 10, 16) in not disclosing that the first format is a Baudot-compliant format suitable for hearing-impaired callers. Note that in Yudkowsky the further prompt with the further format is a Baudot-compliant format suitable for hearing-impaired callers while the first format is voice.

However, it is old and well known in the art that the order of the prompts to seek a specific response from the caller can be varied, for example see McLaughlin col. 7 lines 7-41. McLaughlin teaches sending out prompts of different format to seek a

specific response, e.g. voice message first then auto detect of TDD/modem signals, from the caller and that the order can be varied (e.g. col. 7 lines 37-41) without affecting the overall operation and still provide the same results. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the order of prompts in Yudkowsky to provide a Baudot-compliant format suitable for hearing-impaired callers as the first prompt and the voice as the second prompt since the order in which the prompts are send can be varied and still provide the same result.

Regarding claims 25-30, it is old and well known in the art that Baudot-compliant format uses FSK modulation/demodulation at frequencies of 1400 and 1800 Hz, for example see McLaughlin col. 2 lines 28-30, col. 17 lines 24-39. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yudkowsky as modified by McLaughlin to detect for Baudot-compliant format by identifying signals having frequencies of approximately 1400 and 1800 Hz as claimed.

12.   Claims 31, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yudkowsky in view of Canniff et al (US PAT. NO. 5,619,564 hereinafter Canniff).

Yudkowsky although discloses detecting for DTMF signals, Yudkowsky differs from the claimed invention in not disclosing identifying a frequency of a DTMF tone determine what the received DTMF tone is. However, it is old and well known in the art to identifying a frequency of a DTMF tone determine what the received DTMF tone is, for example see Canniff's abstract. Thus, it would have been obvious to one of ordinary

skill in the art at the time the invention was made to modify Yudkowsky to identifying a

frequency of a DTMF tone in order to determine what the received DTMF tone is.

13.   Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Yudkowsky in view of Crook (US PAT. NO. 6,487,281).

        Yudkowsky differs from the claimed invention in not disclosing the plurality of

evaluations of the responses are perform in parallel. However, it is old and well known

in the art to perform a plurality of evaluations of the responses in parallel, for example

see Crook col. 1 lines 40-48, such that the call is answered and "avoids the delay

typically encountered until the type of call is determined". Thus, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify

Yudkowsky to perform a plurality of evaluations of the responses in parallel such that

the call is answered and "avoids the delay typically encountered until the type of call is

determined" to increase response time.

14.   Claims 41-43, 45-47, 50-52 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Yudkowsky in view of Alheim (US PAT. NO. 5,121,421).

        Regarding claims 41, 45, 50, Yudkowsky differs from the claimed invention in not

disclosing the call is process to provide the given caller access to the resource in the

form of a data store. However, it is old and well known in the art to process calls to

provide the given caller access to the resource in the form of a data store, for example

see Alheim col. 1 lines 37-34. Alheim further discloses using a TDD to access that the

same interactive voice response system that's normally access using the telephone
(e.g. via voice recognition, DTMF), for example see col. 1 line 56 to col. 3 line 19, col. 8
line 4 to col. 10 line 38. Alheim's teachings "provides a hearing-impaired caller with
substantially the same automated telephone processing and information options as
those now enjoyed by hearing persons, including automated attendant, voice mail (i.e.,
TDD-Mail), "audio" text retrieval, transaction processing, and database searching, etc."
(e.g. Alheim col. 3 lines 11-17). Yudkowsky also discloses his invention is for
information handling (e.g. col. 1 lines 6-14, and his invention is dependent on "the
features and functions supported for the particular access code" (e.g. col. 4 line 66 to
col. 5 line 2). Thus, it would have been obvious to one of ordinary skill in the art at the
time the invention was made to modify Yudkowsky to process the call to provide the
given caller access to the resource in the form of a data store (e.g. voice mail, text
retrieval, transaction processing, database searching, etc.) to provide "a hearing-
impaired caller with substantially the same automated telephone processing and
information options as those now enjoyed by hearing persons".

Regarding claims 42, 43, 46, 47, 51, 52, Yudkowsky as modified by Alheim
differs from the claimed invention in not disclosing the system 'is adapted to process the
call so as to enable the given caller to submit a telephone number for entry into a do-
not-call list'. However, Alheim teaches "provides a hearing-impaired caller with
substantially the same automated telephone processing and information options as
those now enjoyed by hearing persons, including automated attendant, voice mail (i.e.,
TDD-Mail), "audio" text retrieval, transaction processing, and database searching, etc."

(e.g. Alheim col. 3 lines 11-17; emphasis added). Yudkowsky also discloses his invention is for information handling (e.g. col. 1 lines 6-14, and his invention is dependent on "the features and functions supported for the particular access code" (e.g. col. 4 line 66 to col. 5 line 2). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yudkowsky as modified by Alheim to be 'adapted to process the call so as to enable the given caller to submit a telephone number for entry into a do-not-call list' as claimed since such use of the interactive system to enter information into the do-not-call list is a particular type of transaction processing within the scope of Alheim's teachings and Yudkowsky's teachings that the system is feature and function dependent to allow the hearing-impaired caller access the same automated telephone processing and information options as those now enjoyed by hearing persons to eliminate annoying telemarketing calls. Furthermore, such use of the system in Yudkowsky as modified by Alheim for entering telephone numbers into the do-no-call list would have been an obvious intended use in view of Alheim and Yudkowsky teachings of the system in various environments.

15.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Examiner W. F. Chan** whose telephone number is 703-305-4732.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached at 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-305-3900.

WING F. CHAN
SENIOR PRIMARY EXAMINER
TECHNOLOGY CENTER 2600

WFC
11/15/04